

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WILLIAM S. HART UNION HIGH
SCHOOL DISTRICT AND LOS ANGELES
COUNTY OFFICE OF EDUCATION.

OAH Case No. 2015071062

ORDER DENYING NOTICE OF
INSUFFICIENCY OF DUE PROCESS
FIRST AMENDED COMPLAINT

On July 10, 2015, Student filed a due process hearing request¹(complaint), naming William S. Hart Union School District. On October 22, 2015, Student filed a First Amended Complaint, and on October 23, 2015 filed a corrected First Amended Complaint, which added Los Angeles County Office of Education as a party. At the October 23, 2015 pre-hearing conference, OAH treated Student's corrected First Amended Complaint as a motion for a request to file a First Amended Complaint. On October 27, 2015, District filed a non-opposition to Student's motion First Amended Complaint. Los Angeles County did not file a response to Student's motion. On October 27, 2015, Los Angeles County filed a Response and a Notice of Insufficiency to Student's First Amended Complaint. On October 28, 2015, OAH granted Student's motion to amend the complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

² 20 U.S.C. § 1415(b) & (c).

of the problem to the extent known and available to the party at the time.³ These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷

DISCUSSION

Student’s First Amended Complaint alleges the following facts: Student’s behaviors were out of control and she struggled with mood and anxiety issues. In June 2014, Mother took Student to Action Residential Treatment Center. Student ran away from Action Residential Treatment Center and was found in a drug induced state. Student was admitted to Provo Canyon in Utah on June 18, 2014, but returned home when insurance stopped paying on July 12, 2014. On August 5, 2014, Student was admitted to the Adolescent Partial Hospitalization at Loma Linda Medical Center for eight days. On September 13, 2014, Student started an intensive outpatient with Action Family, and was asked to leave on September 24, 2014. District assessed Student in October 2014. On December 9, 2014, District convened an individualized educational program team meeting, found Student eligible for special education services and made a FAPE offer to Student. Mother placed

³ 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

⁴ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁵ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁶ *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

⁷ Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

Student in a residential facility when Student's condition deteriorated and was unable to return to school. In July 2015, Student was placed at Falcon Ridge in Utah by a court order.

The issues identified in the complaint were: Whether District and/or Los Angeles County offered Student a FAPE for the 2014-2015 and 2015-2016 school years and extended school year 2016 when it failed to offer placement and services at a residential treatment center to address Student's social, emotional and educational needs.

The facts alleged in Student's First Amended Complaint are sufficient to put the Los Angeles County on notice of the issues stated above, and provided adequate related facts about the problem to permit Los Angeles County to respond to the First Amended Complaint and participate in a resolution session and mediation. As a remedy, Student requests placement in a residential treatment center with appropriate services and supports, and reimbursements for costs incurred by Student's parents since July 2013.

Los Angeles County argued that it had no obligation to hold an individualized education program meeting or recommend placement for Student because Mother and a court placed Student in residential treatment during the June 24, 2015 to July 15, 2015 period, the only period which Los Angeles County contends that Student was within its educational jurisdiction. It also argued that Student did not allege time frames, IEP team meetings, or how Student's needs were not met specifically as to Los Angeles County. Los Angeles County's arguments are unsupported. Although Student could have organized her issues by each school year and extended school as to District and Los Angeles County, she is not required to do so under the minimal notice requirements of the IDEA. The information sought by Los Angeles County is in the First Amended Complaint. Therefore, Student properly alleged her issues and requested specific remedies.

ORDER

1. The First Amended Complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: October 30, 2015

/s/

SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings